

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

40948

FILE:

DATE: JUL 30 1975 97335

MATTER OF: B-184251

DIGEST:

Dante P. Fontanella - Reimbursement for moving expenses incident to transfer of official duty station.

VA employee applied for transfer for personal reasons and agreed to the transfer at his personal expense. He is not entitled to reimbursement of moving expenses incurred incident to transfer since agency bears no responsibility for payment of moving expenses where transfer is initiated by employee for personal benefit or convenience, as opposed to agency's responsibility to pay such expenses when it recruits, requests, or orders employee to transfer to different location.

This is a request for reconsideration of a settlement certificate issued by our Transportation and Claims Division on April 25, 1975, which disallowed the reimbursement of moving expenses incurred by Mr. Dante P. Fontanella, an employee of the Veterans Administration (VA) incident to transfer of his official duty station from Pittsburgh, Pennsylvania, to Los Angeles California, effective November 12, 1972.

The record indicates that Mr. Fontanella desired to transfer to the Southern California area in view of his wife's long standing poor health. Mr. Fontanella signed the Intra-Agency Transfer Request on September 22, 1972. Item 15 of that transfer request stated that travel and transportation were not authorized. Consequently, no travel orders were issued by the VA since it determined that funds were not available and it considered that the transfer was for the benefit of the employee at his request. Mr. Fontanella appeals on the ground that a vacancy existed and that it was not created for him. He also states that he had the necessary qualifications.

With regard to this matter Office of Management and Budget Circular A-56, August 17, 1971, Section 1.1c is for application and states, in pertinent part, as follows:

U97335-097335

B-184251

"Travel covered-generally. When change of official duty station or other action described below is authorized or approved by such official or officials as the head of the department may designate, travel and transportation expenses and applicable allowances as provided herein are payable in the case of (1) transfer of an employee from one official station to another for permanent duty, provided that: the transfer is in the interest of the Government and is not primarily for the convenience or benefit of the employee or at his request \* \* \*"

We previously stated in B-143845, July 26, 1961, that it is within the discretion of the agency to determine in any given case whether a transfer is in the interest of the Government or for the convenience or benefit of the employee. The regulation involved in that case, which is similar to the regulation cited above does not specify factors which distinguish the bases for the transfer. Generally, however, if an employee has taken the initiative in obtaining a transfer to a position in another location, an agency usually considers such transfer as being made for the convenience of the employee or at his request, whereas, if the agency recruits or requests an employee to transfer to a different location it will regard such transfer as being in the interest of the Government. Of course, if an agency orders the transfer and the employee has no discretion in the matter, the employee is entitled to reimbursement of moving expenses.

In the instant case the record indicates that Mr. Fontanella had been desirous of transferring to Southern California, had applied for the transfer, and agreed to transfer without reimbursement of relocation expenses. Under such conditions we cannot disagree with the VA determination that Mr. Fontanella accepted the appointment in the Los Angeles office for personal reasons and that the agency was not required to assume responsibility for payment of his moving expenses.

Accordingly, the disallowance of the claim is sustained.

The decisions of our Office are binding upon the Executive branch of the Federal Government. However, Mr. Fontanella is not

B-134251

precluded from pursuing his claim in a court. As to matters cognizable by the United States District Courts and the United States Court of Claims see 28 U.S.C. § § 1346 and 1491 (1970).

R.F. KELLER

Deputy Comptroller General  
of the United States